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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KELLER, MICHAEL J

ART UNIT

PAPER NUMBER

3634

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,140	Applicant(s) WARTZACK ET AL.	
	Examiner Michael J. Keller	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-12,14,15,17-52 and 54-59 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,11,12,15,17-19,23,24,27-29,52,54,57 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9,10,14,20-22,25,26,30-51,55,56 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In the Reply filed 04/16/2009, Applicant has amended claims 1, 3-5, 9, 10, 14, 25, 43, 44 and 51, canceled claims 2, 6, 13, 16 and 53, and added new claim 59.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 3-5, 9, 10, 20-22, 31-34, 39, 40, 42-45, 55 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Maas (US 2001/0033062).**

4. Regarding **claim 1**, Maas discloses a motor vehicle door comprising:
5. an outer module 2c which has a door outer shell and forms an outer design surface of the vehicle door;
6. a unit carrier 2a which is mounted on the side of the outer module facing the interior of the vehicle and is connected to the outer module through forming an interface;
7. a sealing member 4 extending along the interface between the outer module and the unit carrier and covering at least a portion of the interface;
8. a fixing region formed through a fixing rail 12 which is provided on the door through which the sealing member is fixable through positive locking connection;

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9. detachable fixings 11 in a region of the interface for connecting the unit carrier to the outer module and wherein at least one of the fixings is covered by the sealing member; and

10. wherein one of the sealing member and a section of the sealing member is movable so that the fixings are no longer covered and are exposed for actuation by a tool (the sealing member is attached to the fixings by a detachable snap-lock connection, so the sealing member is movable).

11. Regarding **claims 3 and 4**, the fixings are covered by the sealing member as shown in the figure.

12. Regarding **claim 5**, see paragraph [0019].

13. Regarding **claim 9**, the sealing member is capable of sliding.

14. Regarding **claim 10**, the fixings could be exposed while the sealing member is held on the vehicle door by some other means.

15. Regarding **claims 20-22, 55 and 56**, the parts could be assembled in any order. The method of forming an apparatus is not germane to patentability of the apparatus itself.

16. Regarding **claims 31-34**, Maass discloses reinforcement areas 2b on the outer module.

17. Regarding **claims 39, 40 and 43**, the unit carrier has reinforcement areas (portion of the unit carrier which overlaps with the reinforcement area 2b).

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18. Regarding **claim 42**, the unit carrier is made of metal (paragraph [0025]). While Maass does not disclose stamping or deep drawing, Examiner notes that the method of forming an apparatus is not germane to patentability of the apparatus itself.

19. Regarding **claim 44**, Maass discloses fixing points (holes through which fixings 11 pass) for connecting the outer module to the unit carrier.

20. Regarding **claim 45**, the overlapping area of the reinforcement areas is angled at the edge of the overlapping area adjacent the recess 6.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. **Claims 1, 3-5, 9, 10, 14, 20-22, 30-33, 35-41, 43, 44, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imura et al. (US 4,651,470) in view of Thompson (US 4,916,864).**

23. Regarding **claims 1, 3, and 4**, Imura discloses a motor vehicle door comprising: an outer module 2, a unit carrier 3, a sealing member 37 mounted on a fixing rail, and fixings 3d connecting the outer module to the unit carrier, but does not disclose wherein the fixings are covered by the sealing member.

24. Thompson discloses a door comprising: a first section 14, a second section 16, a sealing member 23 mounted on a fixing rail 22, and fixings 26 connecting the fixing rail and first and second sections.

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25. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to connect the rail of Imura to the unit carrier and outer module using the fixings, as disclosed by Thompson. Doing so would eliminate the need for additional fastening means for connecting the fixing rail to the unit carrier.

26. Regarding **claim 5**, the sealing member forms a seal between the vehicle door and the vehicle body S.

27. Regarding **claims 9 and 10**, the sealing member is slidable within the fixing rail.

28. Regarding **claim 14**, the sealing member is attached to the fixing rail in a push-fit connection.

29. Regarding **claims 20-22, 55 and 56**, the method of forming an apparatus is not germane to the patentability of the apparatus itself.

30. Regarding **claim 30**, Imura discloses a window glass driving mechanism (Col. 6 Lines 6-8).

31. Regarding **claims 31-33**, Imura discloses the outer module has reinforcement areas 11a protruding inwards from the outer module, which run along the outer edges of the outer module.

32. Regarding **claim 35**, Imura discloses a cross support 9 mounted on the outer module.

33. Regarding **claim 36**, Imura discloses a window frame (17, 18; Fig. 3).

34. Regarding **claim 37**, Examiner takes Official Notice that it was known in the art to paint the exterior of a vehicle a different color than the unit carrier. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to paint the

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exterior of the outer module a different color than the unit carrier, in order to create an aesthetically pleasing appearance for the exterior of the vehicle.

35. Regarding **claim 38**, see Imura Fig. 4.

36. Regarding **claims 39-41**, Imura discloses the unit carrier has reinforcement areas 3g protruding outwards from the unit carrier, which reinforcement areas run substantially U-shaped along the outer edges of the unit carrier.

37. Regarding **claim 43**, see Imura Fig. 6.

38. Regarding **claim 44**, Imura discloses fixing points (3f and holes in 11a) provided on the reinforcement areas.

39. **Claims 37 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maas (US 2001/0033062).**

40. Regarding **claim 37**, Examiner takes Official Notice that it was known in the art to paint the exterior of a vehicle a different color than the unit carrier. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to paint the exterior of the outer module a different color than the unit carrier, in order to create an aesthetically pleasing appearance for the exterior of the vehicle.

41. Regarding **claim 51**, Examiner takes Official Notice that it was known in the art to reinforce areas using double layered material. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to make the unit carrier double layered in the area around the fixings. Doing so would reduce the risk of breaking or deforming the unit carrier.

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42. **Claims 25, 26, 46-50 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maass (US 2001/0033062) in view of Fukumoto et al. (US 6,231,112).**

43. Regarding **claims 25, 26 and 59**, Maass discloses a motor vehicle door according to claim 1, as set forth above, but does not disclose a door inside trim mounted on the unit carrier.

44. Fukumoto discloses a motor vehicle door comprising: a unit carrier 6 and a door inside trim 3 mounted on the unit carrier (Fig. 1).

45. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to provide the motor vehicle door of Maass with the door inside trim of Fukumoto, in order to create an aesthetically pleasing for the interior of the vehicle.

46. Regarding **claims 46 and 47**, Maass discloses a motor vehicle door according to claim 1, as set forth above, but does not disclose a lock module.

47. Fukumoto discloses a motor vehicle door comprising: an outer module 2 and 52, a unit carrier 6 and a lock module 11 fixed on an overlapping area of the outer module and unit carrier (Fig. 9).

48. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to provide the motor vehicle door of Maass with the lock module of Fukumoto, in order to allow the door to be held closed against the vehicle body.

49. Regarding **claims 48-50**, Maass discloses a motor vehicle door according to claim 1, as set forth above, but does not disclose a hinge part.

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50. Fukumoto discloses a motor vehicle door comprising: an outer module 2 and 51, a unit carrier 6 and a hinge part 9 fixed to a hinge reinforcement 7 on an overlapping area of the outer module and unit carrier (Fig. 5).

51. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to provide the motor vehicle door of Maas with the hinge part and hinge reinforcement of Fukumoto, in order to allow the door to swing relative to the vehicle body.

Response to Arguments

52. Applicant's arguments with respect to Kaye and Morihara have been fully considered and are persuasive. The claim rejections in view of these references have been withdrawn.

53. Applicant's arguments with respect to Maass have been fully considered but they are not persuasive. Claim 16 was not previously rejected over Maass, and the limitations of claim 16 have been incorporated into claim 1. However, upon further consideration, Examiner has determined that the longitudinal section 12 disclosed by Maass can be considered a "fixing rail" as claimed in amended claim 1.

54. Applicant's arguments with respect to Imura and Thompson have been fully considered but they are not persuasive. Applicant has argued that the flexible gasket 23 of Thompson is not movable. While it is true that the gasket would be securely held on the retainer 22, and would not likely fall off on its own, this does not mean it is impossible to remove the gasket. The gasket is described as flexible, and a person could manipulate the mounting projection 51 of the gasket to free it from the retainer (to

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the position shown in Fig. 5) with relative ease. Furthermore, even though the ribs 30 would "resist outward movement", they would certainly not be capable of preventing movement entirely if subjected to a great enough force.

55. Applicant has further argued that the references cannot be combined, because "the gasket could not extend beyond the parts B of the flange 3." While it is true that the weather strip 37 could not easily be placed over the bolts of Imura due to the structure of the door, the bolts could be moved outward to a position aligned with the weather strip 37. The purpose of the recesses 3g is to allow access to the bolts 3f. However, if the bolts are aligned with the weather strip 37, the recesses would be unnecessary because the bolts could be accessed by removing the weather strip. Eliminating the recesses would also further simplify the construction of the unit carrier.

Conclusion

56. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Reahard, Cowles, Landis and Ryan disclose door seals similar to that of Applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Keller whose telephone number is 571-270-5219. The examiner can normally be reached on Monday - Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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